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## FOIA Fee Waiver Disposition Reached for EOUSA-2019-004003

1 message

**admin@foiaonline.gov** <admin@foiaonline.gov>  
To: jasonleopold@gmail.com

Thu, Aug 15, 2019 at 7:18 AM

Your request for Fee Waiver for the FOIA request EOUSA-2019-004003 has been fully granted. Additional details for this request are as follows:

- Request Created on: 08/05/2019
- Request Description: I request disclosure from the Justice Department/Executive Office of US Attorneys, Eastern District of New York, the following records:

1. A copy of independent monitor Michael Cherkasky's 1,000-page report to the Justice Department detailing HSBC's compliance with a 2012 agreement with the Justice Department to fix faulty money-laundering controls as part of a \$1.9 billion deferred-prosecution agreement with DOJ, which found that HSBC had allowed billions of dollars to be moved throughout its network in violation of sanctions laws and anti-money-laundering statutes.

Since this report was submitted to DOJ and was stored in DOJ filing systems it is an agency record subject to the FOIA. Moreover, in the years since the US government entered into a deferred prosecution agreement with HSBC the bank has been fined nearly \$1 billion and entered into yet another deferred prosecution agreement with the US government related to financial crimes.

Reasonably Foreseeable Harm. The FOIA Improvement Act of 2016 amended the FOIA as follows (5 USC 552(a)(8)):

(A) An agency shall—

(i) withhold information under this section only if—

(I) the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b); or

(II) disclosure is prohibited by law; and

(ii) (I) consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible; and

(II) take reasonable steps necessary to segregate and release nonexempt information. . . .

DOJ and its components should not fail to meet the requirements of Section 552(a)(8) when processing my request and release responsive records to me in full or at least in part.

- Fee Waiver Original Justification: I am the senior investigative reporter for BuzzFeed News and formerly senior investigative reporter and on-air correspondent for VICE News. Additionally, my reporting has been published in The Guardian, The Wall Street Journal, The Financial Times, Salon, CBS Marketwatch, The Los Angeles Times, The Nation, Truthout, Al Jazeera English and Al Jazeera America.

I request a complete waiver of all search and duplication fees. If my request for a waiver is denied, I request that I be considered a member of the news media for fee purposes.

Under 5 U.S.C. §552(a)(4)(A)(iii), "Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Disclosure in this case meets the statutory criteria, as the records sought detail the operations and activities of government. This request is also not primarily in my commercial request, as I am seeking the records as a journalist to analyze and freely release to members of the public.

If I am not granted a complete fee waiver, I request to be considered a member of the news media for fee purposes. I am willing to pay all reasonable duplication expenses incurred in processing this FOIA request.

- Fee Waiver Disposition Reason: N/A

# Exhibit B